

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RICHARD MILLER §
§
Plaintiff, § CIV. A. NO. 3:09-cv-0440-0
§ ECF
v. §
§
RAYTHEON COMPANY, §
§
Defendant. §

**DEFENDANT'S NOTICE CONCERNING THE COURT'S JURISDICTION TO
ADDRESS PLAINTIFFS' ATTORNEYS' FEES MOTION AND MOTION TO EXTEND
DEFENDANT'S RESPONSE DATE**

Raytheon files this Notice and Motion with Respect to Attorneys' Fees and would show the court as follows:

1.

The Court issued an order on June 15, 2011, directing the Parties to brief the issue of whether it has jurisdiction to decide other matters in the above-captioned case. The Parties are in agreement that the Court retains jurisdiction to determine the amount of attorney's fees. The United States Supreme Court held in *Budinich v. Becton Dickinson & Co.*, 486 U.S. 196, 202 (1988), that "an unresolved issue of attorney's fees for the litigation in question does not prevent judgment on the merits from being final." Accordingly, an appeal of the Court's judgment on the merits does not deprive the Court of jurisdiction to determine the claim for fees and costs and vice-versa.

However, the Parties will brief this issue, pursuant to the Court's Order, if the Court requires additional briefing.

2.

Defendant requests, and Plaintiff does not oppose, an extension of time for Raytheon to respond to Plaintiff's Motion for Attorneys' Fees until and including Thursday, June 23, 2011.

Respectfully submitted,

By: /s/ Michael P. Maslanka
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ATTORNEYS FOR DEFENDANT
RAYTHEON COMPANY

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with Yona Rozen, one of the counsel for Plaintiff, and she agrees with the contents of this Motion.

/s/ Michael P. Maslanka
Michael P. Maslanka

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing *Motion With Respect for Attorneys' Fees* has been served upon all parties-of-record on this 17th day of June, 2011, as follows:

Hal K. Gillespie
Yona Rozen
Gillespie, Rozen, & Watsky, PC
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/s/ Michael P Maslanka
Michael P. Maslanka